

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

JAMES RUSSO,

Plaintiff,

v.

UNITED RECOVERY SYSTEMS, LP and
CAPITAL ONE BANK (USA), N.A.,

Defendants.

CASE NO. 14-cv-851

NOTICE OF REMOVAL

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

PLEASE TAKE NOTICE that, in accordance with 28 U.S.C. §§ 1331, 1441 and 1446, and all other applicable law, defendant United Recovery System, LP (“URS”), through its attorneys, Podvey, Meanor, Catenacci, Hildner, Coccoziello & Chattman, P.C., hereby gives notice of the removal of this action, Index No. 500219/2014, pending in the Supreme Court of the State of New York, County of Kings. In support of removal, URS states as follows:

1. On or about January 10, 2014, plaintiff James Russo (“Plaintiff”) commenced a civil action against URS and Capital One Bank (USA), N.A. (“Capital One”) by filing a Complaint (the “Complaint”) in the Supreme Court of the State of New York, County of Kings. The action was assigned Index No. 500219/2014. Plaintiff served the Complaint shortly thereafter. Attached hereto as Exhibit “1” is a true and correct copy of Plaintiff’s Summons and Complaint.

2. Neither URS nor Capital One have entered an appearance in this action in the Supreme Court of the State of New York. The firm of Podvey, Meanor, Catenacci, Hildner, Coccoziello & Chattman, P.C. also represents Capital One in this action.

3. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b) because it has been filed within thirty (30) days of URS's receipt of the Complaint.

4. The Supreme Court of the State of New York, County of Kings, is located in the Eastern District of New York.

5. As required by 28 U.S.C. § 1446(a), a copy of all process and pleadings served upon URS and Capital One is provided with these papers.

FEDERAL QUESTION JURISDICTION

6. Removal of this action to this Court is appropriate because this Court has original jurisdiction over the action pursuant to 28 U.S.C. § 1331.

7. Based on the statements contained in the Complaint, Plaintiff is alleging against URS a violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*

8. Capital One consents to the removal of this action to this Court.

REMOVAL

9. Accordingly, this action is one over which the Court has original jurisdiction pursuant to 28 U.S.C. § 1331 because it arises under the laws of the United States. Therefore, URS may remove this action to this Court pursuant to 28 U.S.C. § 1441.

10. Pursuant to 28 U.S.C. § 1367(a), insofar as the Complaint contains any non-federal claims, such claims may also be removed to this Court because they "are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution." Accordingly, this Court may determine all claims in the Complaint.

11. Because the Complaint was originally filed in the Supreme Court of the State of New York, Kings County, the Eastern District of New York is the appropriate district having jurisdiction over the place where the state court action is pending.

12. This Notice of Removal is filed in the United States District Court for the Eastern District of New York within the time allowed by law for removal of civil actions, that is, within thirty days after URS' receipt of the Complaint.

13. The filing of this Notice of Removal and the removal of this action to this Court does not constitute a waiver of any of URS or Capital One's rights or available defenses, and URS and Capital One expressly reserve their right to assert all such defenses at a later time.

14. In compliance with 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the Supreme Court of the State of New York, County of Kings, and is being served on Plaintiff's counsel.

15. As set forth herein, this Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. This action is properly removed pursuant to 28 U.S.C. §§ 1441 and 1446.

CONCLUSION

WHEREFORE, URS respectfully requests that this Notice of Removal be filed and, accordingly, that this action, Index No. 500219/2014, currently pending in the Supreme Court of the State of New York, County of Kings, be removed to and proceed in this Court.

Dated: February 7, 2014

**PODVEY, MEANOR, CATENACCI,
HILDNER, COCOZIELLO
& CHATTMAN, P.C.**

/s/ Daniel Ginzburg

By: Michael F. Bevacqua, Jr.
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